

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD SIMMONS,	:	
Petitioner,	:	
v.	:	Civil Action No. 05-639
PENNSYLVANIA BOARD OF PROBATION	:	
AND PAROLE, PENNSYLVANIA	:	
ATTORNEY GENERAL,	:	
Respondents	:	

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for a Report and Recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on July 6, 2006, docket no. 3, recommending that the petition be summarily denied both as unexhausted and on the merits, and that a certificate of appealability be denied.

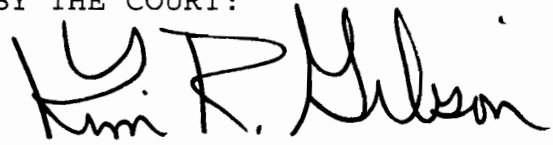
The petitioner was notified that pursuant to 28 U.S.C. § 636(b)(1), he had ten days to serve and file written objections to the Report and Recommendation. Petitioner has not filed objections, and the time to do so has expired.

After de novo review of the record of this matter, together with the Report and Recommendation, and noting the absence of timely objections thereto, the following order is entered:

AND NOW, this 24<sup>th</sup> day of July, 2006, it is

ORDERED that the petitioner's petition for a writ of habeas corpus is denied without prejudice as unexhausted. A certificate of appealability is denied. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson". The signature is written in a cursive, flowing style. The first name "Kim" is written in a larger, more prominent script, followed by "R." and "Gibson". The signature is positioned above a horizontal line.

KIM R. GIBSON,  
UNITED STATES DISTRICT JUDGE

Notice to:

Richard Simmons CU-5256  
S.C.I. Dallas  
1000 Follies Road  
Drawer K  
Dallas, PA 18612